

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BILL KILLINGSWORTH,

Petitioner,

vs.

No. CIV 09-0845 JB/WDS

GEORGE TAPIA, Warden and
GARY KING, Attorney General of
the State of New Mexico,

Respondents.

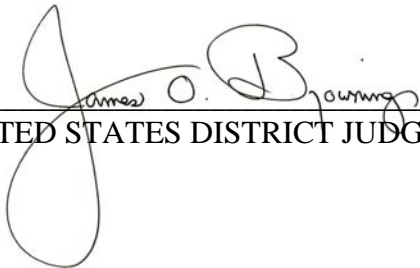
ORDER

THIS MATTER comes before the Court on Petitioner Bill Killingsworth's timely Motion to Alter or Amend the Court's Memorandum Opinion and Order and the Court's Final Judgment, filed July 7, 2010 (Doc. 27). The Respondents did not file a response to the motion. Having considered the motion, the record, and the applicable law, the Court finds that Petitioner Bill Killingsworth's motion does not have a sound basis in the law or in the facts of this case, and will deny it.

A court should grant a motion under rule 59(e) of the Federal Rules of Civil procedure "only to correct manifest errors of law or to present newly discovered evidence." Loughridge v. Chiles Power Supply Co., 431 F.3d 1268, 1274-75 (10th Cir. 2005)(quoting Phelps v. Hamilton, 122 F.3d 1309, 1324 (10th Cir. 1997)). Killingsworth does not argue that there has been a manifest error of law, nor does he present newly discovered evidence. He largely revisits issues that the Court has already addressed regarding the statute of limitations. He provides the Court with more details regarding the documents he believes the New Mexico Department of Corrections destroyed, but such detail is not newly discovered evidence nor, for all the reasons discussed in this Court's

Memorandum Opinion and Order, filed June 29, 2010 (Doc. 24), would it change the outcome of his Petition. Killingsworth also contends that the Court did not address his other arguments set forth in his June 2, 2010 Objections regarding why he was entitled to federal habeas relief. See Doc. 23. Because this Court found that the applicable statute of limitations barred Killingsworth's Petition, such discussion was unnecessary. See Memorandum Opinion and Order at 4 (Doc. 24).

IT IS ORDERED that Petitioner Bill Killingsworth's Motion to Alter or Amend the Court's Memorandum Opinion and Order and the Court's Final Judgment is denied.


UNITED STATES DISTRICT JUDGE

Parties and counsel:

Bill Killingsworth
Penitentiary of New Mexico
Santa Fe, New Mexico

Petitioner pro se

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Attorneys for the Respondents